

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christopher Anderson	Team: Squad #11	CCRB Case #: 201800255	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 12/12/2017 3:05 PM	Location of Incident: 3845 Broadway; 33rd Precinct stationhouse	Precinct: 33	18 Mo. SOL 6/12/2019	EO SOL 6/12/2019	
Date/Time CV Reported Wed, 01/10/2018 1:42 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 01/10/2018 1:42 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			NARCBMN
2. DT3 Jamal Hairston	00203	941875	NARCBMN
3. SGT James Gerrity	00758	925344	NARCBMN
4. DT3 Anthony Chow	07025	932462	NARCBMN
5. An officer			NARCBMN
6. POM Shannon Myers	5199	949383	NARCBMN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 William Garcia	5094	950473	NARCBMN
2. DT3 Mohammed Rios	05238	942429	NARCBMN
3. DT3 Christophe Vanweddinger	07796	919808	NARCBMN
4. DT3 Darren Bruce	01290	929793	NARCBMN
5. DT3 Paola Santos	4784	944290	NARCBMN
6. POM Daniel Madden	07841	950796	NARCBMN
7. DT3 Fernando Bonilla	2196	947717	NARCBMN

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Anthony Chow	Force: At 3845 Broadway in Manhattan, Detective Anthony Chow used a chokehold against § 87(2)(b)	
B.DT3 Anthony Chow	Force: At 3845 Broadway in Manhattan, Detective Anthony Chow used physical force against § 87(2)(b)	
C.POM Shannon Myers	Force: At 3845 Broadway in Manhattan, Police Officer Shannon Myers struck § 87(2)(b) with a radio.	
D. An officer	Force: At 3845 Broadway in Manhattan, an officer struck § 87(2)(b) with a radio.	
E.POM Shannon Myers	Force: At 3845 Broadway in Manhattan, Police Officer Shannon Myers used physical force against § 87(2)(b)	
F. Officers	Force: At 3845 Broadway in Manhattan, officers used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
G.POM Shannon Myers	Force: Outside 3845 Broadway in Manhattan, Police Officer Shannon Myers used physical force against § 87(2)(b)	
H.DT3 Jamal Hairston	Force: Outside 3845 Broadway in Manhattan, Detective Jamal Hairston used physical force against § 87(2)(b)	
I.SGT James Gerrity	Abuse: At the 33rd Precinct stationhouse, Sergeant James Gerrity strip-searched § 87(2)(b)	
J. An officer	Abuse: At the 33rd Precinct stationhouse, an officer searched § 87(2)(b) s recording device.	
§ 87(4-b), § 87(2)(g)		

## Case Summary

On January 10, 2018, § 87(2)(b) called the CCRB and filed this complaint via the Call Processing System.

On December 12, 2017, § 87(2)(b) engaged with a dispute with § 87(2)(b) in the vicinity of West 161st Street and Broadway in Manhattan. Multiple officers from Narcotics Borough Manhattan North, including Det. Jamal Hairston, Sgt. James Gerrity, Det. Anthony Chow, PO Shannon Myers, Det. Fernando Bonilla, PO Daniel Madden, Det. Paola Santos, Det. Darren Bruce, Det. Christophe Vanweddinger, Det. Mohammed Rios, and Det. William Garcia, arrived at the location, and § 87(2)(b) walked away from them and entered a nearby store.

§ 87(2)(b) exited the store and walked towards a fish market located at 3845 Broadway in Manhattan. Det. Chow entered it and pushed § 87(2)(b) towards its interior. Det. Chow allegedly took hold of § 87(2)(b)'s throat (**Allegation A -Force: Chokehold**, § 87(2)(g)). § 87(2)(b) pushed Det. Chow away from him. Det. Chow allegedly punched § 87(2)(b) one time in his left ear (**Allegation B -Force: Physical force**, § 87(2)(g)) and § 87(2)(b) punched Det. Chow one time in the face, causing him to fall backwards.

PO Meyers and Det. Hairston entered the location. Officers attempted to bring § 87(2)(b) to the ground, and he took hold of a nearby table to prevent them from doing so. PO Meyers and an officer allegedly struck § 87(2)(b) in his hand and shoulder with their radios (**Allegations C and D -Force: Radio as club**, § 87(2)(g)). PO Myers forcibly took § 87(2)(b) to the ground (**Allegation E -Force: Physical force**, § 87(2)(g)) and multiple officers allegedly kicked him (**Allegation F -Force**, § 87(2)(b)).

§ 87(2)(b) was handcuffed and escorted to a prisoner van, where PO Myers and Det. Hairston allegedly threw him forward towards the van's interior, causing him to strike his knee against one of its steps (**Allegations G and H -Force**, § 87(2)(g)). Officers transported § 87(2)(b) to the 33rd Precinct stationhouse, where Sgt. James Gerrity authorized that he be strip-searched (**Allegation I -Abuse of Authority: Strip-search**, § 87(2)(g)).

After the strip-search, an officer held § 87(2)(b)'s cell phone and displayed its screen to him. The officer displayed photographs and videos depicting firearms and requested that § 87(2)(b) provide the location of firearms to him (**Allegation J -Abuse of Authority: Search of Recording Device**, § 87(2)(b)). § 87(4-b), § 87(2)(g), § 87(2)(h), § 87(2)(b)

§ 87(2)(b) (Board Review 01).

§ 87(2)(g) The video files are attached to IA number 84 and do not appear to depict any FADO allegations.

## **Findings and Recommendations**

**Allegation (A) Force: At 3845 Broadway in Manhattan, Detective Anthony Chow used a chokehold against § 87(2)(b)**

**Allegation (B) Force: At 3845 Broadway in Manhattan, Detective Anthony Chow used physical force against § 87(2)(b)**

§ 87(2)(b) stated (Board Review 02) that he met with § 87(2)(b) was informed by Michel Jeandarcél via telephone that officers had seen his interaction with § 87(2)(b) and walked to a “smoke shop,” where he met § 87(2)(b) § 87(2)(b) then walked towards the fish market at 3845 Broadway, where Det. Chow grabbed hold of § 87(2)(b) s shoulder, “spun” him around, pushed him backwards into a gate, opened the market’s entry door, and pushed § 87(2)(b) into it until § 87(2)(b) moved backwards against a counter.

Det. Chow grabbed hold of § 87(2)(b) s throat with one hand, gripping its front in a manner § 87(2)(b) did not state restricted his breathing; Det. Chow maintained this contact for approximately two seconds. Det. Chow asked what § 87(2)(b) had in his hands. § 87(2)(b) displayed his empty hands to Det. Chow and pushed him backwards with open palms. Det. Chow punched § 87(2)(b) with a closed right fist one time in his left ear, causing no injury. § 87(2)(b) punched Det. Chow with a closed right fist one time in his forehead, causing Det. Chow to fall to the ground.

Det. Chow stated (Board Review 03) that, in a Buy and Bust operation, Det. Bonilla provided a physical description and location of a Hispanic male. Det. Bonilla described this individual’s appearance in further detail that Det. Chow could not recall. When Det. Chow went to the location provided, he saw § 87(2)(b) whose appearance was consistent with that Det. Bonilla described. Det. Chow entered the fish market, identified himself as an NYPD officer, and displayed his shield to § 87(2)(b) who asked why Det. Chow interacted with him. Det. Chow requested that § 87(2)(b) speak with him about a narcotics investigation, and § 87(2)(b) became “belligerent” and walked away. Det. Chow attempted to grab hold of § 87(2)(b) s arm; § 87(2)(b) pulled his arm away from Det. Chow and pushed Det. Chow’s arm away from him. Det. Chow did not recall whether § 87(2)(b) pushed him with open palms, and he did not take any other physical action to gain § 87(2)(b) s compliance. Det. Chow denied grabbing hold of § 87(2)(b) s neck.

Det. Chow and § 87(2)(b) exited the market, where Det. Chow requested officer assistance via his radio. Det. Chow and § 87(2)(b) re-entered the market and remained there for approximately two to three minutes before other officers entered it. Det. Chow did not see any officer strike or attempt to strike any part of § 87(2)(b) s body, including his hands, with a radio. Det. Chow denied punching § 87(2)(b) and did not recall whether § 87(2)(b) punched him or any officer. Det. Chow was informed in his CCRB interview that § 87(2)(b) acknowledged punching him, and he denied that this refreshed his recollection of such an event.

PO Myers stated (Board Review 04) that approximately one minute after Det. Chow and § 87(2)(b) entered the market, he entered it and saw them “struggle” in that Det. Chow held one of § 87(2)(b)’s arms and § 87(2)(b) pulled his arms and body away from Det. Chow and attempted to run from him. PO Myers denied seeing either Det. Chow or § 87(2)(b) punch each other and did not either of them complain of having been punched. PO Myers denied seeing Det. Chow make contact with § 87(2)(b)’s neck or throat, and § 87(2)(b) did not complain of this occurring.

Det. Hairston stated (Board Review 05) that approximately 30 seconds after hearing Det. Chow state via radio that he would go to the location provided by Det. Bonilla, Det. Chow yelled, “The fish market! The fish market!” on his radio. The manner in which Det. Chow yelled, along with his providing a landmark instead of an address, caused Det. Hairston to think that he was “in trouble.” Det. Chow did not provide an explanation for his request for assistance, and Det. Hairston did not later learn of any reason he did so or what occurred inside the market. Det. Hairston ran to the market, where he saw, through the entry door, Det. Chow “struggling” with § 87(2)(b) which Det. Hairston found to be unusual for Det. Chow, who he usually thought to be “calm” and “quiet.”

Det. Hairston, Sgt. Gerrity, and PO Myers entered the market. § 87(2)(b) held a phone in his left hand and had a handcuff on his right wrist. § 87(2)(b) said, “Get off me!” and “yanked” Det. Chow, who held the unsecured handcuff, towards him. Det. Chow instructed § 87(2)(b) to provide his hand. § 87(2)(b) threw his fists and elbows towards Det. Chow without making contact. Det. Hairston did not see § 87(2)(b) or Det. Chow punch the other and did not know whether this had occurred prior to his entering the market.

Det. Vanweddinger stated (Board Review 06) that during the operation, Det. Chow requested, via his radio, assistance apprehending someone, sounded “out of breath” as he did so, and did not provide additional details regarding his request. A member of the field team referenced a fish market, and Det. Vanweddinger went to the market and entered it. Inside were multiple members of the field team and § 87(2)(b) who was face-down on the ground and refused to provide his hands to officers. Det. Chow appeared “winded” and “sweaty.”

When asked during his CCRB interview whether any officers informed Det. Vanweddinger about what had occurred prior to his entering the market, Det. Vanweddinger stated, “He was fighting with Det. Chow. Oh, that’s right. He might have punched Det. Chow in the face.” Det. Vanweddinger learned of this sometime on the incident date from a source he could not recall. Det. Vanweddinger did not see Det. Chow or any officer contact § 87(2)(b)’s neck or throat.

Det. Bruce (Board Review 07) stated that he drove the prisoner van to West 162<sup>nd</sup> Street and Broadway when instructed by officers to do so for retrieving prisoners. After arriving, Det. Bruce and other officers escorted § 87(2)(b) into the van. Det. Bruce did not learn during or after the incident of any force used by or against § 87(2)(b) prior to his arrival.

Det. Bonilla (Board Review 09), Det. Rios (Board Review 10), and PO Madden (Board Review 11) denied seeing aspects of the incident that occurred in the vicinity of 3845 Broadway



kit,” which contains a radio and other tools and is obstructed from view beneath an officer’s clothing.

Det. Hairston stated that he, Det. Chow, and PO Myers handcuffed § 87(2)(b) Det. Hairston did not recall if § 87(2)(b) grabbed hold of anything near him and stated that § 87(2)(b) was not within a reachable distance of any counter. Det. Hairston did not see any officer strike any part of § 87(2)(b)’s body with a radio, did not see any officer’s radio removed from its ghost kit.

Det. Vanweddinger did not see any officers whose radios were outside of their ghost kits inside the market and did not see any officer strike § 87(2)(b) with them.

§ 87(2)(g)

**Allegation (E) Force: At 3845 Broadway in Manhattan, Police Officer Shannon Myers used physical force against § 87(2)(b)**

**Allegation (F) Force: At 3845 Broadway in Manhattan, officers used physical force against § 87(2)(b)**

§ 87(2)(b) stated that after officers struck him with their radios, officers brought him to the ground, causing him to land on his back. § 87(2)(b) felt force against his body that he thought to be officers kicking him. An officer instructed § 87(2)(b) to turn onto his stomach, which he did, and he was subsequently rear handcuffed.

Det. Chow stated that he attempted to bring § 87(2)(b) to the ground by pulling on his arm. He did so until § 87(2)(b) went to his knees, and other officers, he thought, pushed § 87(2)(b) forward until he was face-down on the ground.

PO Myers stated that in the market, he grabbed hold of one of § 87(2)(b)’s arms, placed one of his feet in front of § 87(2)(b) with intent to trip him, and “dragged” him to the ground to handcuff him. PO Myers did not use any additional force against § 87(2)(b) PO Myers denied kicking § 87(2)(b) on the ground or seeing any officer do so.

Det. Hairston stated that he did not recall whether § 87(2)(b) was forcibly taken down. Det. Hairston did not kick § 87(2)(b) or see any officer do so.

Det. Vanweddinger stated that inside the market, officers pulled § 87(2)(b)’s hands behind his back to handcuff him and used no additional force against him.

An officer must use no more than the force necessary to gain compliance or control. NYPD Patrol Guide, Section 221-01 (Board Review 13).

§ 87(2)(g)

§ 87(2)(g)

**Allegation (G) Force: Outside 3845 Broadway in Manhattan, Police Officer Shannon Myers used physical force against § 87(2)(b)**

**Allegation (H) Force: Outside 3845 Broadway in Manhattan, Detective Jamal Hairston used physical force against § 87(2)(b)**

§ 87(2)(b) stated that officers escorted him outside the market and to a prisoner van, where PO Myers and Det. Hairston, who held onto § 87(2)(b)'s arms, swung their arms forward and "threw" him forward into the van's interior. § 87(2)(b)'s left knee struck one of the van's stairs, causing a laceration. § 87(2)(b) was transported to the 33<sup>rd</sup> Precinct stationhouse.

Det. Chow stated that § 87(2)(b) was handcuffed in the market and escorted to a prisoner van, where he was verbally but not physically "belligerent." Det. Chow did not see the process of § 87(2)(b) being escorted into the prisoner van and did not see injuries to § 87(2)(b) after this.

PO Myers stated that outside the market, he "looped" one of his arms around § 87(2)(b) escorted him to the prisoner van outside, and instructed § 87(2)(b) to enter the van. § 87(2)(b) stated that he was unable to do so, and PO Myers informed him that he had walked out of the market by his own power. Det. Bruce and Det. Santos took control of escorting § 87(2)(b) into the van, a process in which PO Myers did not see any difficulty occur.

Det. Hairston stated that he did not see § 87(2)(b) being escorted into the prisoner van, see officers "throw" § 87(2)(b) into the prisoner van, or see any injury to § 87(2)(b)'s knee.

Det. Vanweddinger stated that he did not see anything notable that occurred as § 87(2)(b) was escorted into the prisoner van, including officers "throwing" him into it.

Det. Bruce stated that he escorted § 87(2)(b) who was "irate," to the prisoner van. § 87(2)(b) yelled and kicked his legs. § 87(2)(b) was not "thrown" into the van, and Det. Bruce did not see him strike his knee against any part of it or sustain any injury.

§ 87(2)(g)



**Allegation (I) Abuse of Authority: At the 33rd Precinct stationhouse, Sergeant James Gerrity strip-searched § 87(2)(b)**

**Allegation (J) Abuse of Authority: At the 33rd Precinct stationhouse, an officer searched § 87(2)(b) s recording device.**

**Allegation (K) § 87(2)(g), § 87(1-b)**

§ 87(2)(b) alleged that he was strip-searched at the 33<sup>rd</sup> Precinct stationhouse and that during the strip-search, he was instructed to bend over. When he refused to do so, an officer informed him that if he did not do so, a piece of paper or cardboard would be slid between his buttocks. § 87(2)(b) stated he would not allow this to occur, and the strip-search concluded shortly thereafter without additional incident.

After being strip-searched, § 87(2)(b) spoke with an approximately 6'2" tall white male in his early 30s with a slightly muscular build and blonde hair. This officer operated § 87(2)(b) s cell phone, found photographs of firearms in its photo gallery, and displayed the photographs to § 87(2)(b) asking where such firearms could be found. The officer offered to alter § 87(2)(b) s arrest charges in exchange for such information. This allegation was referred to IAB in CCRB case number 201900054.

All officers interviewed denied operating § 87(2)(b) s cell phone, seeing any officer do anything they thought to be such an action, denied having a conversation with § 87(2)(b) as alleged, or hearing any officer interact with § 87(2)(b) in such a manner.

Sgt. Gerrity stated, after seeing the 33<sup>rd</sup> Precinct Command Log entry for § 87(2)(b) s arrest (Board Review 14), that his handwriting was in the entry, which stated "strip search auth. Sgt. Gerrity." Sgt. Gerrity stated that he did not recall the circumstances of § 87(2)(b) s strip-search but noted that he was present for all strip-searches he authorized and only authorized strip-searches when officers had reasonable suspicion that an individual arrested on narcotics charges had additional narcotics secreted on their person. Sgt. Gerrity did not hear any officer make statements during the strip-search of the nature § 87(2)(b) alleged.

PO Myers stated that he was present for § 87(2)(b) s strip-search, during which he and Sgt. Gerrity instructed § 87(2)(b) to remove his clothing, which he did. § 87(2)(b) bent his body over and did not refuse to do so. PO Myers denied that any officer made comments as alleged by § 87(2)(b) PO Myers did not provide any information to Sgt. Gerrity that may have led to his authorizing a strip-search of § 87(2)(b) and did not know what, if any, officer did so.

All other officers interviewed either were not aware of § 87(2)(b) being strip-searched or did not recall this occurring. None of these officers saw § 87(2)(b) do anything that they thought necessitated a strip-search or heard any officer make statements during the strip-search of the nature § 87(2)(b) alleged.

The 33<sup>rd</sup> Precinct Command Log entry for § 87(2)(b) s arrest notes that Sgt. Gerrity authorized a strip-search of § 87(2)(b) and that the search returned negative results. The Command Log does not make further reference to this strip-search.



---

Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date